

BILL NO. R-97-10-28

RESOLUTION NO. ^R~~8~~ 77-97

"AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NO MORE THAN \$750,000 ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 1997 (OTTENWELLER CO., INC. PROJECT) OF THE CITY OF FORT WAYNE, INDIANA, FOR THE PURPOSE OF FUNDING A LOAN TO OTTENWELLER CO., INC. IN ORDER TO FINANCE THE ACQUISITION AND INSTALLATION OF EQUIPMENT AND MACHINERY TO BE UTILIZED IN AN EXISTING MANUFACTURING FACILITY LOCATED IN THE CITY OF FORT WAYNE, INDIANA; PROVIDING FOR THE PLEDGE OF REVENUES FOR THE PAYMENT OF SUCH BONDS; AUTHORIZING THE EXECUTION OF A BOND PURCHASE AND LOAN AGREEMENT AND A PROJECT NOTE APPROPRIATE FOR THE PROTECTION AND DISPOSITION OF SUCH REVENUES AND TO FURTHER SECURE SUCH BONDS; AND AUTHORIZING SUCH OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS."

WHEREAS, the City of Fort Wayne, Indiana (the "Issuer"), is a municipal corporation and political subdivision of the State of Indiana, and by virtue of the constitution and laws of the State, including Indiana Code, Title 36, Article 7, Chapters 11.9 and 12, as supplemented and amended (the "Act"), is authorized and empowered, among other things, to (a) provide funds for the acquisition, construction, installation and equipping of economic development facilities; (b) issue its revenue bonds for the purpose set forth herein; (c) secure such revenue bonds by a pledge and assignment of revenues and other documents as provided for herein; and (d) enact this Ordinance (the "Bond Ordinance"), execute the Loan Agreement (as hereinafter defined) and all other documents to be executed by it, upon the terms and conditions provided therein; and

WHEREAS, the Common Council of the Issuer (the "Council") has found and determined, and does hereby confirm, that the "economic development facilities" to be financed with the proceeds of the Bonds herein authorized (the "Project") will be to the benefit of the health and general welfare of the citizens of the City of Fort Wayne, Indiana, and that the Issuer, by assisting with the financing of the Project through the issuance of revenue bonds in the aggregate principal amount not to exceed \$750,000, will be acting in a manner consistent with and in furtherance of the provisions of the Act; and

1 WHEREAS, as a result of negotiations between the Issuer and Ottenweller Co.,
2 Inc., an Indiana corporation (the "Borrower"), contracts have been or will be entered
3 into by the Borrower for the purpose of the acquisition and installation of the Project
4 to be located in the City of Fort Wayne, Indiana, and such Project shall consist of the
5 acquisition and installation of equipment and machinery to be utilized in an existing
6 manufacturing facility located at 3011 Congressional Parkway, Fort Wayne, Indiana;
7 and

8 WHEREAS, the Project will be used by the Borrower for the manufacture of
9 fabricated metal parts for the construction, agricultural, industrial equipment, and H-
10 D truck manufacturers industries; and

11 WHEREAS, pursuant to a Bond Purchase and Loan Agreement (the "Loan
12 Agreement"), dated the date of closing, among the Issuer, the Borrower and NBD
13 Bank, N.A., as original purchaser of the Bonds (the "Holder"), the Issuer proposes to
14 issue its \$750,000 Economic Development Revenue Bonds, Series 1997 (Ottenweller
15 Co., Inc. Project) (the "Bonds") to provide funds for the Project, by lending such
16 funds to the Borrower pursuant to the Loan Agreement which prescribes the terms
17 and conditions under which the Borrower shall repay such loan and pursuant to
18 which the Borrower will execute and deliver to the Issuer its promissory note (the
19 "Project Note") in the principal amount equal to the aggregate principal amount of
20 the Bonds; and

21 WHEREAS, pursuant to the provisions of Section 36-7-12-24(a) of the Act and
22 Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), a
23 public hearing on the proposed plan of financing of the Project was held by the
24 Economic Development Commission (the "Commission") of the Issuer, prior to the
25 adoption of this Ordinance, pursuant to notice caused to be published by the
26 Commission in *The Journal Gazette* and *The News-Sentinel*, each being a newspaper
27 of general circulation in the City of Fort Wayne, Indiana, on October __, 1997 and
28 October __, 1997, respectively.

29 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL
30 OF THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

31 Section 1. Definitions. In addition to the words and terms defined in this
32 Ordinance, the words and terms used in this Ordinance shall have the meanings set
33 forth in the Loan Agreement, the Project Note, and in the form of the Bonds unless
34 the context or use indicates another or different meaning or intent.

35 Section 2. Determination of Issuer. Pursuant to the Act, and based solely upon
36 the application submitted by the Borrower and other representations made,
37 information presented and testimony given by representatives of the Borrower,

1 without independent verification, the Issuer hereby finds and determines that (a) the
2 Project is an "economic development facility" as defined in the Act and is consistent
3 with the provisions of the Act, (b) the Project will not have an adverse competitive
4 effect on similar industrial projects already constructed or operating in the City of
5 Fort Wayne, Indiana, and (c) in order to relieve a condition of unemployment in the
6 City of Fort Wayne, Indiana, to promote opportunities for gainful employment and
7 business opportunities in the City of Fort Wayne, Indiana, and to benefit the health
8 and general welfare of the citizens of the City of Fort Wayne, Indiana, the Project
9 shall be and is hereby approved and authorized to be financed through the issuance of
10 the Bonds as described herein.

11 The Issuer further determines that the action of the Commission in causing
12 notice of said public hearing to be published as required by Section 36-7-12-24(a) of
13 the Act and Section 147(f) of the Code, and in causing a report to be provided to the
14 executive director or chairman of the plan commission having jurisdiction over the
15 Project, is in all respects hereby ratified, confirmed and approved, and the holding of
16 said public hearing by the Commission and the delivery of such report are hereby
17 acknowledged and approved. The Mayor, as the "applicable elected representative"
18 of the Issuer for purposes of Section 147(f) of the Code, has concurrently herewith
19 approved the issuance of the Bonds in the aggregate principal amount not to exceed
20 \$750,000 to assist in the acquisition and installation of the Project as hereinbefore
21 provided.

22 Section 3. Small Issue Election of Issuer. The Issuer hereby elects to have the
23 provisions as to the \$10,000,000 limitation contained in Section 144(a)(4)(A) of the
24 Code apply to the Bonds

25 Section 4. Authorization of Bonds. There are hereby authorized to be issued,
26 sold and delivered the Bonds designated as "City of Fort Wayne, Indiana, Economic
27 Development Revenue Bonds, Series 1997 (Ottenweller Co., Inc. Project)" in an
28 aggregate principal amount not to exceed Seven Hundred Fifty Thousand Dollars
29 (\$750,000), for the purpose of paying a portion of the cost of the acquisition and
30 installation of the Project.

31 Section 5. Terms and Execution of the Bonds. The Bonds shall be issued as
32 fully registered Bonds, without coupons, in the form and denominations set forth in
33 the Loan Agreement; shall bear such date as provided in the Loan Agreement; shall
34 mature no later than 8 years from the date of issue and shall bear interest at a variable
35 rate equal to 86% of the Prime Rate (as defined in the Loan Agreement); shall be
36 subject to redemption prior to maturity upon the terms and conditions set forth in the
37 Loan Agreement; shall be payable at such place or places and in such medium as
38 provided in the Loan Agreement; and shall contain such other terms and provisions
39 as are set forth in the Loan Agreement.

1 The Bonds shall be executed on behalf of the Issuer by the manual or facsimile
2 signatures of the Mayor of the Issuer and the City Clerk of the Issuer, and the seal of
3 the Issuer shall be impressed thereon or a facsimile of such seal placed thereon. If
4 the Bonds are issued without a trust indenture or trustee, at least one of the
5 authorized signatures on the Bonds shall be manual. In case any officer whose
6 signature or a facsimile thereof shall appear on the Bonds shall cease to be such
7 officer before the issuance or delivery of the Bonds, such signature or facsimile
8 thereof shall nevertheless be valid and sufficient for all purposes, the same as if he
9 had remained in office until after that time.

10 The Bonds are special, limited obligations of the Issuer payable solely from
11 payments of principal of, premium, if any, and interest on the Bonds made by the
12 Borrower under the Project Note and the Loan Agreement except to the extent that
13 the principal of, premium, if any, and interest on the Bonds may be paid out of
14 money attributable to Bond proceeds or from temporary investments or from other
15 moneys, if any, accruing to the Holder.

16 Pursuant to the Loan Agreement, the Issuer will assign to the Holder the
17 Issuer's rights under the Loan Agreement and the Project Note (except for the
18 Unassigned Issuer Rights, as defined in the Loan Agreement), as security for the
19 payment of the Bonds. As a result of the Issuer's assignment as hereinbefore
20 provided, the Issuer will have no ownership interest in the Project.

21 The Bonds and the obligation to pay interest thereon do not now and shall
22 never constitute a debt, a liability, a general obligation or a pledge of the faith and
23 credit of the Issuer, the State of Indiana or any political subdivision thereof, or a
24 charge against the general faith and credit or taxing powers, if any, of any of them,
25 within the meaning of any constitutional or statutory provision, but shall be secured
26 as aforesaid, and are payable solely from the revenues and receipts derived from the
27 Loan Agreement and the Project Note. No Holder of the Bonds shall have the right
28 to compel the taxing powers, if any, of the Issuer, the State of Indiana or any political
29 subdivision thereof to pay any principal of, premium, if any, or interest on the Bonds.
30 Neither the members of the Issuer nor any person executing the Bonds shall be
subject to personal liability or accountability by reason of the issuance of the Bonds.

The Borrower will indemnify and hold the Issuer, its members, the
Commission, its members and the State of Indiana, including its attorneys,
employees and agents, free and harmless from any loss, claim, damage, tax, penalty,
liability, disbursement, litigation expenses, attorneys' fees and expenses or court
costs arising out of, or in any way relating to, the execution or performance of the
Loan Agreement, the Project Note or any other documents in connection therewith,
including the issuance or sale of the Bonds, actions taken under the Loan Agreement,
the Project Note or any other cause whatsoever pertaining to the Project or the
Bonds, except in any case as a result of the gross negligence or willful misconduct of

the Issuer.

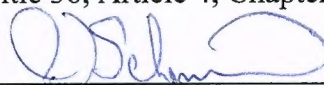
Section 6. Authorization of the Loan Agreement, Project Note and All Other Documents to be Executed by the Issuer. In order to secure the payment of the principal of, premium, if any, and interest on the Bonds, the Mayor of the Issuer and the City Clerk of the Issuer, shall execute, acknowledge and deliver in the name and on behalf of the Issuer, the Loan Agreement and shall endorse the Project Note to the Holder in substantially the form submitted to the Council, with such changes therein as such officials, with the advice of counsel, may approve and determine, as conclusively evidenced by their execution thereof, to be advisable and in the best interests of the Issuer and in conformance with this Ordinance, but only if such changes do not affect the terms set forth in I.C. 36-7-12-27(a)(1) through (10). The documents before this meeting, including the Loan Agreement and the Project Note, have been approved in the forms submitted. The City Clerk of the Issuer is hereby directed to keep such Loan Agreement and the Project Note on file and open for public inspection.

Section 7. General. The Mayor of the Issuer and the City Clerk of the Issuer, are hereby authorized and directed, in the name of and on behalf of the Issuer, to execute any and all instruments, documents and certificates, perform any and all acts, approve any and all matters, and do any and all things deemed by them to be necessary or desirable in order to carry out the purposes of this Ordinance (including the preambles hereto), the acquisition and installation of the Project by the Borrower, the issuance and sale of the Bonds pursuant to the Loan Agreement and the securing of the Bonds under the Loan Agreement and the Project Note.

Section 8. Invalidity. If any section, paragraph, clause or provision of this Ordinance shall be ruled by any court of competent jurisdiction to be invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions.

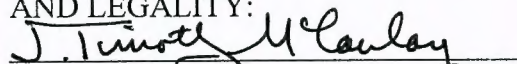
Section 9. Conflicts. All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed.

Section 10. Effective Date. This Ordinance shall be in full force and effect upon compliance with Indiana Code, Title 36, Article 4, Chapter 6.



Council Member

APPROVED AS TO FORM
AND LEGALITY:


J. Timothy McCaulay, City Attorney

Read the first time in full and on motion by Delmuth,
and duly adopted, read the second time by title and referred to the Committee on
Finance, (and the City Plan Commission for recommendation)
and Public Hearing to be held after due legal notice, at the Common Council Conference
Room 128, City-County Building, Fort Wayne, Indiana, on _____,
the _____ day of _____, 19____, at
o'clock _____ M., E.S.T.

DATED: 10-28-97

Read the third time in full and on motion by Delmuth,
and duly adopted, placed on its passage. PASSED LOST
by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>9</u>			
BENDER	<u>✓</u>			
CRAWFORD	<u>✓</u>			
EDMONDS	<u>✓</u>			
HALL	<u>✓</u>			
HAYHURST	<u>✓</u>			
HENRY	<u>✓</u>			
LUNSEY	<u>✓</u>			
RAVINE	<u>✓</u>			
SCHMIDT	<u>✓</u>			

DATED: 11-18-97

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana,
as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL)

(ZONING) ORDINANCE RESOLUTION NO. R-77-97
on the 18th day of November, 1997

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

SEAL

Thomas P. Henry
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the
19th day of November, 1997,
at the hour of 10:30, o'clock A., M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 21st day
of November, 1997, at the hour of 8:30
o'clock A M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

DIGEST SHEET

TITLE OF ORDINANCE: A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF NO MORE THAN \$750,000 ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 1997 (OTTENWELLER CO., INC. PROJECT) OF THE CITY OF FORT WAYNE, INDIANA, FOR THE PURPOSE OF FUNDING A LOAN TO OTTENWELLER CO., INC. IN ORDER TO FINANCE THE ACQUISITION AND INSTALLATION OF EQUIPMENT AND MACHINERY TO BE UTILIZED IN AN EXISTING MANUFACTURING FACILITY LOCATED IN THE CITY OF FORT WAYNE, INDIANA; PROVIDING FOR THE PLEDGE OF REVENUES FOR THE PAYMENT OF SUCH BONDS; AUTHORIZING THE EXECUTION OF A BOND PURCHASE AND LOAN AGREEMENT AND A PROJECT NOTE APPROPRIATE FOR THE PROTECTION AND DISPOSITION OF SUCH REVENUES AND TO FURTHER SECURE SUCH BONDS; AND AUTHORIZING SUCH OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS.

DEPARTMENT REQUESTING ORDINANCE: Economic Development

SYNOPSIS OF ORDINANCE: This resolution approves an inducement resolution of the Economic Development Commission authorizing the issuance of \$1,900,00 in first mortgage revenue bonds to enable Ottenweller Company, Inc to construct a 35,000 square foot addition and to acquire additional equipment at its current site.

EFFECT OF PASSAGE: Ottenweller Company, Inc. will be enabled to secure equipment enabling the creation of 8 additional jobs at start up and 25 additional jobs within 3 years.

EFFECT OF NON-PASSAGE: Financing will fail and the additional jobs may be lost.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): None.

ASSIGNED TO COMMITTEE (PRESIDENT): _____



The City of Fort Wayne

Paul Helmke, Mayor

October 27, 1997

To the Members of Common Council:

Enclosed please find a Resolution to authorize the issuance of \$750,000.00 of Economic Development Revenue bonds for Ottenweller Company, Inc. to allow them to acquire additional equipment for their existing location recently enlarged. Applicant represents that 8 additional jobs at start up will be created with a total of 25 additional jobs at the end of 3 years.

The resolution ratifies the Economic Development Commission Inducement resolution and authorizes the financing and induces the Applicant to proceed with the construction and equipping of the project.

The bond issue is to be a limited obligation issue and will not impact the tax rate or the city's bonding capacity.

A failure to pass the resolution would cause the borrower to face increased interest expenses or to abandon the project.

If this issue is to qualify for the Indiana Revenue Bond volume cap, it must be closed by December 4, 1997. Developer received notice of its potential qualification for the volume cap on October 20, 1997

Very truly yours,

CITY OF FORT WAYNE ECONOMIC
DEVELOPMENT COMMISSION

R. David Boyer,
Associate City Attorney

RDB:alc
Enclosure

BILL NO. R-97-10-28

REPORT OF THE COMMITTEE ON FINANCE

DONALD J. SCHMIDT - JOHN N. CRAWFORD - CO-CHAIR
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS
REFERRED AN ~~(ORDINANCE)~~ (RESOLUTION) authorizing the issuance and
sale of no more than \$750,000 Economic Development Revenue Bonds,
Series 1997 (Ottenweller Co., Inc. Project)

HAVE HAD SAID ~~(ORDINANCE)~~ (RESOLUTION) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (RESOLUTION) _____

DO PASS

DO NOT PASS

ABSTAIN

NO REC

DBL

Thomas E. Hughes

Martin A. Bunk

John M. Miller

Reece Davis

Myra L. C. C. C.

Debra Hall

Clifford R. Edwards

DATED: 11-18-97

Sandra E. Kennedy
City Clerk